

CHAPTER 12. RECORDKEEPING

Section 12.1 Maintaining proof of registration. The NFA requires that a person possessing a firearm registered in the National Firearms Registration and Transfer Record (NFRTR) retain proof of registration which must be made available to the Attorney General, specifically an ATF agent or investigator, upon request.¹⁸⁵ Proof of registration would be on a Form 1 registering a firearm to its maker, Form 2 registering a firearm to an importer or manufacturer, or a Form 3, 4, or 5 showing registration of a firearm to a transferee.

12.1.1 Manner in which registration documents must be kept. NFA regulations require FFLs/SOTs maintain their registration documents in chronological order at their place of business.¹⁸⁶

12.1.2 Recordkeeping where registered firearms are kept on premises other than the registered owner's place of business. If the registered firearms are kept at a location other than the place of business shown on the registrant's special tax stamp, the forms showing the firearm's registration must be annotated to reflect the place where the firearms are kept or stored. ATF has advised in the past that documents (such as a statement, file card, or office form indicating the current location) may be kept with the registration records to show such off-premises location. In addition, an FFL/SOT's notation in the A & D Records disposition line is also acceptable to show such location if a notice is kept with the registration document stating "See bound book for storage location." ATF will clarify this policy in the near future.

Section 12.2 Verifying the description of firearms on registration documents. It is important to verify that the information on a registration document accurately describes the registered firearm. Where firearms were registered prior to the amended NFA in 1968 or during the 1968 amnesty period, it was not uncommon for these firearms to have been inaccurately described on the registration forms. Owners of registered firearms should carefully compare each field in the "Description of Firearm" section on the registration document with their firearm. Of particular importance are the fields recording the type of firearm, model, and serial number. Concerning the serial number, it is important to ensure that digits in the number have not been transposed, or, if the serial number contains letters as a prefix or suffix, that those letters are properly shown as part of the number.

Section 12.3 Correcting an error in the description of a registered firearm. If errors are found in the description of a firearm in the owner's registration document, the owner should write a letter to the Chief, NFA Branch and request the registration record for the firearm be corrected. The letter should describe the problem and provide the correct information. If the error being reported involves an incorrect serial number, ATF will require that close-up photographs or a pencil rubbing of the actual serial number be provided. A copy of the registration document should also be included with the letter request. Persons requesting a correction to the description of their registered firearm should also retain a copy of the letter request with their registration document until ATF responds with an acknowledgement that the registration record has been corrected.

Section 12.4 Custody of NFA firearms by employees of FFLs/SOTs. It is common for employees of FFLs/SOTs to take firearms registered to the FFLs/SOTs off-premises for display, demonstration, or other purposes on behalf of their registered owners. This does not result in the "transfer" of NFA

¹⁸⁵ 26 U.S.C. 5841(e)

¹⁸⁶ 27 CFR 479.131

firearms requiring ATF approval and registration of the firearms to the employees as long as the firearms are possessed for the employer's business purposes and not for employee's personal use. Similarly, employees taking custody of firearms under these circumstances would not constitute a "firearms disposition" that is required to be recorded in FFL/SOT's acquisition and disposition records (A & D Records). Although not legally required, FFLs/SOTs and their employees should consider taking the following actions as a matter of good business practice:

- (1) Keep a copy of the NFA registration document with each registered firearm.
- (2) If the firearm is located in an area having State or local registration requirements, keep a copy of the State/local registration document with the firearm.
- (3) Where the firearm is taken off-premises for display, demonstration, or other purposes on behalf of the registered owner, keep a copy of the NFA and State/local registration documents with the firearm.
- (4) Provide an employee having custody of the registered owner's firearm away from the licensed premises with a letter authorizing the employee to possess the firearm on the employer's behalf.

These actions would help convince law enforcement authorities who encounter the firearm that the FFL/SOT's employee is in lawful possession of the firearm and that the firearm is not unlawfully possessed and subject to seizure.

12.4.1 Who is an "employee" of an FFL/SOT? For purposes of this section, an "employee" is a bona fide employee of an FFL/SOT on the FFL/SOT's payroll. An "employee" is not a mere agent of the FFL/SOT appointed temporarily to take possession of the registered owner's firearm for a particular mission. If an agent of an FFL/SOT, rather than a bona fide employee, takes possession of the FFL/SOT's registered firearm, a "transfer" occurs subject to registration, tax, and other provisions of the NFA.

Section 12.5 Firearms acquisition and disposition records. NFA regulations require each manufacturer, importer, and dealer in NFA firearms to maintain the records of the acquisition and disposition of firearms required by GCA regulations in 27 CFR Part 478, Subpart H.¹⁸⁷ The regulations identify specific formats and required information fields for recording and maintaining these records. The records must be maintained on the FFL/SOT's licensed premises.¹⁸⁸

12.5.1 Commercial records of firearms received. When a commercial record is held by a licensed dealer or collector showing the acquisition of a firearm or curio or relic, and the record contains all acquisition information required to be recorded in the licensee's A & D Records, the licensee may, for a period not exceeding 7 days following the date of receipt, delay making the required entry in the A & D Records if the commercial record is (1) maintained separate from other commercial documents, and (2) is readily available for inspection on the licensed premises. When disposition is made of the firearm not entered into the A & D Records, the licensee must enter all required information in the A & D Records at the time of the transfer.¹⁸⁹

¹⁸⁷ 27 CFR 479.131

¹⁸⁸ 27 CFR 478.121(a)

¹⁸⁹ 27 CFR 478.125(g)

12.5.1 Alternate acquisition and disposition records for low volume dealers. This is a little used but available alternative for low-volume firearms dealers to maintain records of the acquisition and disposition of firearms. In lieu of the A&D records discussed in Section 12.5, a licensed dealer contemplating the disposition of not more than 50 firearms within a succeeding 12-month period, whether to other FFLs or to nonlicensees, may maintain a record of the acquisition and disposition of firearms on firearms transaction records, Forms 4473(LV).¹⁹⁰ A dealer maintaining records on these forms, whose firearms dispositions exceed 50 firearms within the 12-month period, must make and maintain the prescribed A&D Records for each firearm exceeding 50. See the regulations in 27 CFR 478.124a for details on maintaining records on Forms 4473(LV).

12.5.2 Variances in the recordkeeping requirements for the acquisition and disposition of firearms. ATF may authorize an FFL to maintain alternate records of the acquisition and disposition of firearms if such records would accurately and readily disclose the required information.¹⁹¹ To use an alternate method of recordkeeping, an FFL must submit a letter application, in duplicate, to the appropriate Director of Industry Operations (DIO) and describe the proposed alternate records. Alternate records may not be employed by the FFL until approval is received from ATF. With the exception of computerized recordkeeping variance requests presented by FFLs located within one ATF Field Division, DIOs may be required to forward variance requests to the ATF Firearms Programs Division for review and approval.

12.5.2.1 Computerized records. In lieu of the hard-copy, A & D Records required by the regulations, the DIO may authorize FFLs to maintain computerized records of their firearms acquisitions and dispositions records. DIOs will approve the use of a computerized recordkeeping system if:

- (1) The system meets the regulatory requirements for recording the information in 27 CFR 478.122, 27 CFR 478.123, and/or 27 CFR 478.125.
- (2) The system allows queries by serial number, acquisition date, and name of the manufacturer. Commonly recognized trade names may be used when denoting the manufacturer or importer.
- (3) The system has an acceptable daily backup for all databases.
- (4) The system must provide periodic printouts of all records at least semiannually, upon request of an ATF officer, when the database is purged, and when the license is terminated. The printouts must be limited to the information required by 27 CFR 478.122, 27 CFR 478.123, and/or 27 CFR 478.125 only. The printouts must be retained until the next required printout is prepared
- (5) The computer printouts contain firearms in inventory, as well as all firearms transferred during the period covered, sequentially by date of acquisition.

¹⁹⁰ 27 CFR 478.124a

¹⁹¹ 27 CFR 478.125(h)

- (6) The system must record both the manufacturer and the importer of foreign made firearms.
- (7) (7) Printouts may include antique firearms, but cannot include other non-firearm merchandise. However, firearms not subject to GCA requirements must be identified as “ANT” in the “firearm type” column.
- (8) The name and address (if nonlicensee) or the name and FFL number (if licensee) of both the supplier/consignor and the purchaser/transferee must be included in the computer data. The name and ATF Form transaction number may be used in lieu of the address for recording the transfer of a firearm to a nonlicensee if the Forms 4473 are filed numerically.
- (9) The system cannot rely upon invoices or other paper/manual systems to provide any of the required information.
- (10) Any changes in an approved system must be reported to the DIO in writing with a copy of the original variance approval attached, for evaluation and consideration prior to implementation.
- (11) All acquisition and disposition records must remain at the licensed premises.

Section 12.6 Forms 4473. A licensed firearms importer, manufacturer, or dealer may not sell or dispose of a firearm to a nonlicensee unless the transaction is recorded on ATF Form 4473.¹⁹² See Section 12.6.2 for firearms transfers occurring as a result of the return of a repaired or replacement firearm.

12.6.1 Firearms acquired from an FFL by an organization. An FFL who sells or otherwise disposes of a firearm to a nonlicensee who is other an individual, that is, a corporation, partnership, or association, must obtain a Form 4473 from the individual acquiring the firearm on behalf of the organization.¹⁹³ The individual must attach a written statement to the form, executed under the penalties of perjury, stating that the firearm is being acquired for the use of his/her organization and the name and address of the organization. The FFL must also initiate a background check of the individual under the Brady Law.¹⁹⁴

12.6.2 Return of firearms delivered to an FFL for repair or customizing. A Form 4473 is not required to record the disposition of a firearm delivered to an FFL for the sole purpose of repair or customizing when the firearm or a replacement firearm is returned to the person from whom it was received.¹⁹⁵ See Section 9.5.1 suggesting the use of Forms 5 to document the delivery of a firearm to an FFL for repair (or customizing) and the return of the firearm. The use of an ATF-approved Form 5 for these transactions is beneficial to the registered owner of the firearm and to the FFL having the firearm for repair or customizing. If the registered owner is inspected by ATF while the gun is away for repair or customizing, an ATF-approved Form 5 will satisfy the inspector that the absence of the gun from inventory is lawful and not due to a loss or unlawful transfer. If the FFL having the gun for repair or

¹⁹² 27 CFR 478.124(a)

¹⁹³ 27 CFR 478.124(g)

¹⁹⁴ Q&A P60, ATF Pub. 5300.4, Sept. 2005, p. 195

¹⁹⁵ 27 CFR 478.124(a)

customizing has an approved Form 5 for receipt of the gun, the FFL can establish to an ATF inspector's satisfaction that the gun is lawfully possessed.

12.6.3 Maintaining Forms 4473. FFLs must retain in alphabetical (by name of purchaser), chronological (by date of disposition), or numerical (by transaction serial number) order, each Form 4473 obtained in the course of transferring firearms.¹⁹⁶ Forms 4473 obtained whereby the sale, delivery or transfer of the firearm did not take place must be separately retained in similar alphabetical, numerical, or chronological fashion.¹⁹⁷

Section 12.7 Record retention period. The regulations provided under the NFA, specifically 27 CFR 479.131, provide that the retention periods for required records shall be in conformity with the requirements specified under Part 478. As provided by Part 478:

- (1) Records of firearms transactions maintained by licensed importers and licensed manufacturers must maintain permanent records of the importation, manufacture, or other acquisition of firearms.¹⁹⁸
- (2) Licensed importer's and manufacturer's records of sales or other disposition of firearms over the age of 20 years may be discarded.¹⁹⁹
- (3) The A & D Records prepared by licensed dealers and licensed collectors over 20 years of age may be discarded.
- (4) All FFLs shall retain each Form 4473 and 4473(LV) for a period not less than 20 years from the date of sale or disposition of the firearms. Forms 4473 obtained by FFLs where the NICS check was initiated, but the sale, delivery, or transfer of the firearm was not completed must be retained for a period of not less than 5 years.²⁰⁰
- (5) Licensees are also required to retain the ATF Form 3310.4, Multiple Sales or Other Disposition of Pistols and Revolvers, as well as ATF Form 3310.11, Federal Firearms Licensee Theft/Loss Report, for a period of not less than 5 years.²⁰¹
- (6) Retention of the records relating to transactions in semi-automatic assault weapons must be retained for a period not less 5 years

¹⁹⁶ 27 CFR 478.124(b)

¹⁹⁷ 27 CFR 478.129(b)

¹⁹⁸ 27 CFR 478.129(d)

¹⁹⁹ 27 CFR 478.129(a); 478.129(d)

²⁰⁰ 27 CFR 478.129(b)

²⁰¹ 27 CFR 478.129(c)